

Senate Bill No. 1776

CHAPTER 245

An act to add and repeal Sections 25550 and 25550.5 of the Public Resources Code, relating to energy resources.

[Approved by Governor August 23, 2004. Filed with
Secretary of State August 23, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1776, Bowen. Electrical energy: thermal powerplants.

Existing law provides for the restructuring of California's electric power industry so that the price for the generation of electricity is determined by a competitive market. Existing law, until January 1, 2004, required the State Energy Resources Conservation and Development Commission (Energy Commission) to establish a process for the expedited review of applications to construct and operate thermal powerplants and related facilities and for the expedited review of repowering projects.

This bill would, until January 1, 2007, reinstate those provisions for establishing a process for the expedited review of applications to construct and operate thermal powerplants and related facilities and for the expedited review of repowering projects.

The people of the State of California do enact as follows:

SECTION 1. Section 25550 is added to the Public Resources Code, to read:

25550. (a) Notwithstanding subdivision (a) of Section 25522 and Section 25540.6, the commission shall establish a process to issue its final certification for any thermal powerplant and related facilities within six months after the filing of the application for certification that, on the basis of an initial review, shows that there is substantial evidence that the project will not cause a significant adverse impact on the environment or electrical system and will comply with all applicable standards, ordinances, or laws. For purposes of this section, filing has the same meaning as in Section 25522.

(b) Thermal powerplants and related facilities reviewed under this process shall satisfy the requirements of Section 25520 and other necessary information required by the commission, by regulation, including the information required for permitting by each local, state, and regional agency that would have jurisdiction over the proposed



thermal powerplant and related facilities, but for the exclusive jurisdiction of the commission, and the information required for permitting by each federal agency that has jurisdiction over the proposed thermal powerplant and related facilities.

(c) After acceptance of an application under this section, the commission shall not be required to issue a six-month final decision on the application if it determines there is substantial evidence in the record that the thermal powerplant and related facilities may result in a significant adverse impact on the environment or electrical system or does not comply with an applicable standard, ordinance, or law. Under this circumstance, the commission shall make its decision in accordance with subdivision (a) of Section 25522 and Section 25540.6, and a new application shall not be required.

(d) For an application that the commission accepts under this section, all local, regional, and state agencies that would have had jurisdiction over the proposed thermal powerplant and related facilities, but for the exclusive jurisdiction of the commission, shall provide their final comments, determinations, or opinions within 100 days after the filing of the application. The regional water quality control boards, as established pursuant to Chapter 4 (commencing with Section 13200) of Division 7 of the Water Code, shall retain jurisdiction over any applicable water quality standard that is incorporated into any final certification issued pursuant to this chapter.

(e) Thermal powerplants and related facilities that demonstrate superior environmental or efficiency performance shall receive priority in review.

(f) With respect to a thermal powerplant and related facilities reviewed under the process established by this chapter, it shall be shown that the applicant has a contract with a general contractor and has contracted for an adequate supply of skilled labor to construct, operate, and maintain the plant.

(g) With respect to a thermal powerplant and related facilities reviewed under the process established by this chapter, it shall be shown that the thermal powerplant and related facilities complies with all regulations adopted by the commission that ensure that an application addresses disproportionate impacts in a manner consistent with Section 65040.12 of the Government Code.

(h) To implement this section, the commission may adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 2 of Division 3 of Title 2 of the Government Code. For purposes of that chapter, including without limitation, Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the



immediate preservation of the public peace, health, safety, and general welfare.

(i) This section shall remain in effect until January 1, 2007, and as of that date is repealed unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

SEC. 2. Section 25550.5 is added to the Public Resources Code, to read:

25550.5. (a) Notwithstanding subdivision (a) of Section 25522 and Section 25540.6, the commission shall establish a process to issue its final decision on an application for certification for the repowering of a thermal powerplant and related facilities within 180 days after the filing of the application for certification that, on the basis of an initial review, shows that there is substantial evidence that the project will not cause a significant adverse impact on the environment or electrical system and that the project will comply with all applicable standards, ordinances, regulations, and statutes. For purposes of this section, filing has the same meaning as in Section 25522.

(b) The repowering of a thermal powerplant and related facilities reviewed under this process shall satisfy the requirements of Section 25520 and other necessary information required by the commission by regulation, including the information required for permitting by each local, state, and regional agency that would have jurisdiction over the proposed repowering of a thermal powerplant and related facilities, but for the exclusive jurisdiction of the commission, and the information required for permitting by each federal agency that has jurisdiction over the proposed repowering of a thermal powerplant and related facilities.

(c) After an application is filed under this section, the commission shall not be required to issue a final decision on the application within 180 days if it determines there is substantial evidence in the record that the thermal powerplant and related facilities may result in a significant adverse impact on the environment or electrical system or does not comply with an applicable standard, ordinance, regulation, or statute. Under this circumstance, the commission shall make its decision in accordance with subdivision (a) of Section 25522 and Section 25540.6, and a new application shall not be required.

(d) For an application that the commission accepts under this section, any local, regional, or state agency that would have had jurisdiction over the proposed thermal powerplant and related facilities, but for the exclusive jurisdiction of the commission, shall provide its final comments, determinations, or opinions within 100 days after the filing of the application. The regional water quality control board, as established pursuant to Chapter 4 (commencing with Section 13200) of Division 7 of the Water Code, shall retain jurisdiction over any



applicable water quality standard that is incorporated into any final certification issued pursuant to this chapter.

(e) The repowering of a thermal powerplant and related facilities that demonstrate superior environmental or efficiency performance improvement shall receive first priority in review by the commission.

(f) With respect to the repowering of a thermal powerplant and related facilities reviewed under the process established by this chapter, it shall be shown that the applicant has contracted with a general contractor and has contracted for an adequate supply of skilled labor to construct, operate, and maintain the plant.

(g) With respect to a repowering of a thermal powerplant and related facilities reviewed under the process established by this chapter, it shall be shown that the thermal powerplant and related facilities complies with all regulations adopted by the commission that ensure that an application addresses disproportionate impacts in a manner consistent with Section 65040.12 of the Government Code.

(h) To implement this section, the commission may adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that chapter, including, without limitation, Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(i) For purposes of this section, “repowering” means a project for the modification of an existing generation unit of a thermal powerplant that meets all of the following criteria:

(1) The project complies with all applicable requirements of federal, state, and local laws.

(2) The project is located on the site of, and within the existing boundaries of, an existing thermal facility.

(3) The project will not require significant additional rights-of-way for electrical or fuel-related transmission facilities.

(4) The project will result in significant and substantial increases in the efficiency of the production of electricity, including, but not limited to, reducing the heat rate, reducing the use of natural gas, reducing the use and discharge of water, and reducing air pollutants emitted by the project, as measured on a per kilowatthour basis.

(j) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

